HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.12868 of 1998

10.7.2007

Between

Shaik Safeeq and another ..Petitioners

AND

Member Secretary, A.P.S.E. Board and another ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.12868 of 1998

It is represented on behalf of the respondents that the cases of the writ petitioners for regularization of their services in accordance with the scheme enunciated through B.P.Ms.No.36 dated 18.5.1997 could not be taken up, for, they were less than 18 years of age at the time they have been initially engaged. Therefore, the respondents would say that though the writ petitioners have been subjected to the process of selection on 24.10.1997, they could not be selected and appointed.

It will be relevant to notice in this regard the stipulation contained in Regulation 16(i)(e) of the A.P.S.E. Board Service Regulations.

> "Age" i) Technical personnel or non technical personnel who have, on or before the first day of the month in which selection is held, completed 30 or 25 years of age respectively shall not be eligible for direct recruitment. Minors i.e. candidates who have not completed 18 years of age also shall not be eligible for direct recruitment".

When a similar issue had fallen for consideration before the Supreme Court in Civil Appeal 3215 of 2002 and batch decided on 18.4.2002, the matter has been concluded in the following manner:

> "The limited question which was required to be considered was with regard to the condition laid down in the aforesaid Board Proceedings

which, *inter alia*, provides that for regularization of service the age of the candidates shall be reckoned as per the Board's service regulations in force at the time of their first engagement and there shall be no relaxation of age.

In view of the aforesaid Board's proceedings as well as the circulars it was incumbent upon the Board to consider the age of the candidate at the time of his first engagement.

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In our view, in the petitions before the High Court there was no question of considering public policy and the discussion on the law was totally besides the point involved in the matter. Limited issue was – whether before regularization of service of employees, the Board was bound to follow the eligibility conditions laid down in its proceedings dated 18.5.1997 and 31.12.1997. Benefit of regularization which was conferred on the employees solely depended upon eligibility of conditions including the age limit prescribed under the statutory regulations. The statutory regulations provide that there shall be no relaxation of age. In cases, where the Board has committed mistake in engaging under age or over age casual employees or has permitted the contractor to do so would not confer any right on such employees for being regularized on the basis of B.P.MS. dated 18.5.1997."

Since this issue is covered by the aforesaid judgment of the Supreme Court, the writ petition has to be dismissed and it is accordingly, dismissed. No costs.

NOOTY RAMAMOHANA RAO.J.

10.7.2007
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